

**APPLICATION OF 3 LAKE AVENUE EXTENSION, LLC  
FOR ZONING REGULATION AMENDMENTS**

**DANBURY ZONING COMMISSION**

**Applicant's Supplemental Materials/  
Responses to November 9 Public Hearing**

**November 15, 2021**

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Tab 1

## MEMORANDUM

**TO:** Danbury Zoning Commission

**FROM:** 3 Lake Avenue Extension, LLC  
Hinckley, Allen & Snyder LLP

**DATE:** November 15, 2021

**RE:** Applicant's Responses to November 9, 2021 Public Hearing  
Comments and Questions

1. **Additional minor revision/clarification to proposed zoning regulation amendments:**  
At Tab 2, the applicant has proposed a minor revision and a clarification to the regulation amendment. First, to eliminate the two potential properties other than 3 Lake Avenue Extension from operating as a transitional shelter for the homeless, we have added the words "from Exit 4" from Interstate 84 to the location criteria for a transitional shelter. This eliminates the state-owned property adjacent to Exit 2, and it eliminates the Crowne Plaza.

As before, and as seconded by the Danbury Corporation Counsel, the regulation is not spot zoning.

Also, it is procedurally permissible to propose a minor amendment to the text at this stage because it is a minor clarification; it further *limits* the property potentially subject to the regulation; it does not extend the regulation to any new property; the public hearing is still open; and the clarification is in direct response to Commission questions and concerns about other properties being subject to the regulation.

The second clarification is a new proposed subsection (15) which requires that any application for a special exception and site plan to establish a transitional shelter be accompanied by a facility and building security and safety plan, and the Planning Commission is specifically empowered to impose conditions of approval to ensure security and safety.

2. **This is not a "mega shelter."** It is time for opponents to stop calling the facility a mega shelter, because it is not. The facility has 38 emergency shelter beds, which under the proposed regulation can only be increased to a maximum of 44. Most of the homeless people who use these beds are individuals not couples, and certainly not families (children are not allowed in the facility). *So the number of homeless who are using the emergency beds is approximately the same number as were housed by Danbury's congregate/dormitory shelters prior to the pandemic.*

The two upper floors of the facility are supportive house units, not emergency beds. Each floor contains 22 units, making the total number of supportive housing units

44. Except for the supportive services, the occupancy on these floors is essentially the same as when the Super 8 motel was operating.

In recent weeks, on an average night, the facility has housed between 50 and 70 total individuals, between the emergency beds and supportive units. Again, this number is not substantially different from pre-pandemic. The “172 population” number in the regulation is the Fire Department’s maximum allowable occupancy, but the facility has never operated at anywhere near this number and would only expect to get close to it briefly in an emergency weather protocol. If the maximum number of emergency shelter beds allowed under the regulation (44) are used, and all supportive housing units are filled, the total population for the facility would be 132.

3. **Police calls to 3 Lake Avenue Extension.** The updated data from the Police Department demonstrate plainly that there has been no material change in the number of police calls and responses to 3 Lake Avenue since the conversion from the Super 8 to a transitional shelter began. In addition, the calls are infrequent, less than 20 per month.
4. **Misinformation about resident deaths.** At the November 9 hearing, an assertion was made that there have been up to five deaths at the shelter and they had not been reported, implying neglect on the part of the staff. There has been one death at the facility, in January 2021, when the facility was still operating as a hotel. The facility staff responded appropriately. Also, please note that among the emergency bed areas, occupants are not permitted to lock doors, and staff can enter as needed for inspections.
5. **Facility security.** At the existing facility, perimeter surveillance cameras have been installed and operate 24/7. Other existing measures are in Pacific House’s November 2 materials at Tab 10.
6. **Property security checks.** Staff of the facility conduct regular check of the parking lot. *This check by staff extends to neighboring properties; if individuals known to be staying at the facility are loitering on neighbor properties, they are asked to come back to the facility. (That is, the security checks do not end at the property line.)*
7. **Late and intoxicated/drugged arrivals.** If an individual who has already been at the facility returns after the curfew, he or she will be allowed to enter. If an individual shows up at any hour intoxicated or drugged, the facility staff provides assistance, usually with a 911 call for help and possible hospitalization. The facility staff does not shut the door and turn such individuals away. If someone arrives at the facility without going through the normal 211 assessment, they would normally be denied access to the shelter and redirected to 211 for assessment and to place them on the priority shelter list. During inclement weather protocols (for cold weather and extreme heat), such an individual would be allowed into the shelter for the night or until the weather has become less extreme, but would be referred to 211 to schedule a CAN assessment. As of the date of this submission, the cold weather protocol has been activated so anyone arriving at the shelter would be allowed to enter, provided there is space, regardless of how they were referred (including self-referral or being dropped off by local police). The only time a



person would not be allowed entry under these circumstances is if they were asked to leave due to a physical altercation or threatening situation.

8. **“From Danbury?”** The applicant notes that by definition, homeless individuals do not have a current residence address, so it is perplexing how and why opponents insist that the facility assist only people “from Danbury.” Nonetheless, the statistics provided by the Department of Housing and its Coordinated Access Network shows that the facility is operating as a regional facility, but does not turn away individuals in need based on their most recent place of residence.
9. **Veterans?** The transitional shelter serves military veterans.
10. **Sex offenders.** Currently, no one on the registry is at the facility. Pedophiles are not permitted at any time. Up to three other people who are on the registry (but again, not pedophiles) are allowed at the facility.
11. **Planning Departments September 9 memo.** City Planner Calitro was completely accurate in saying in her September 9 memo that the proposed transitional sheltered for the homeless is very similar to uses currently allowed into the CA-80 zone. The zone allows hotels, motels, and congregate and continuing care housing, to name a few. Attorney Marcus’ contention that there are no comparable uses in the zone is simply incorrect.
12. **Supportive units and shelter beds as affordable housing under 8-30g.** The Department of Housing has confirmed that it will treat the supportive units and emergency beds at the transitional shelter as “assisted housing” under General Statutes § 8-30g. The units clearly fit within that definition, which is housing provided with government financial support. The fact at DOH will count these units on the State’s § 8-30g Ten Percent List is a great benefit to the City of Danbury, as it seeks to stay above the Ten Percent limit and maintain its permanent exemption from 8-30g. Also, Attorney Marcus stated that § 8-30g required affordable units to be marketed regionally to meet Fair Housing Act requirements. But there is no greater marketing program of affordable housing units to individuals in need than the State’s Coordinated Access Network (CAN), which meets and exceeds the requirements of § 8-30g regulations.
13. **No CDBG money.** Mr. Nolan was incorrect in asserting that millions of dollars of CDBG money is available for alternatives to operating 3 Lake Avenue Extension as a transitional shelter. Such funding was proposed by the State DOH, but requires that the facility be in compliance with local zoning. So such funds are not available unless and until a zoning-compliant facility is approved.
14. **Batista businesses.** The Dunkin Donuts on Lake Avenue Extension did not close due to conversion of the Super 8 from a hotel to shelter. *It closed because it did not have a drive-through window.* Many other similar restaurants closed after the onset of the pandemic for this reason.

The letter at Tab 3 of this package demonstrates the Attorney Marcus' client, Mr. Batista, *in May 2021, when the facility had been converted to a shelter*, applied to rehab the Dunkin Donuts into a vape shop, demonstrating the owner's belief that a business could operate in that location near the shelter.

Perhaps the Commission should ask Mr. Batista about who is harming the neighborhood (and its children) – the owner of the adult store-liquor store-proposed vape shop, or the facility operating to reduce the City's homeless population by transitioning to permanent housing?

Tab 2



## ZONING REGULATIONS AMENDMENT

### SECTION 2. ARTERIAL COMMERCIAL DISTRICT: CA-80 Proposed Revision to § 2.B

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#### SECTION 2. DEFINITIONS

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##### 2.B DEFINITIONS.

**Dwelling unit.** A housing unit containing a single room or group of rooms designed for occupancy as separate living quarters by one family. Separate living quarters are those in which occupants have direct access to the unit from outside of the building or through a common hall and which contain separate bedrooms (other than efficiency units) and provisions for living, dining, kitchen and bathroom facilities for the exclusive use of the occupants. The following uses are not considered dwelling units as defined herein: clubs; congregate housing; dormitories; fraternal organizations; fraternity or sorority houses; hotels or motels; nursing homes; rooming houses or boarding houses; shelters for the homeless; transitional shelters for the homeless; or, similar uses. [Rev. 11/26/2011]

**Shelter for the homeless.** A facility providing only temporary dormitory/congregate-style housing and [~~ancillary~~] associated services for one or more individuals who would otherwise be without shelter; homeless shelter.

**Transitional shelter for the homeless.** A facility that provides both supportive units and emergency shelter rooms and associated services to those experiencing homelessness, which such facility is controlled and operated by either (1) a non-profit housing organization pursuant to a contract with the Connecticut Department of Housing; or (2) the City of Danbury. Supportive units shall consist of a room/rooms with an area for sleeping and contain a kitchenette comprised only of a mini-refrigerator and microwave, a bathroom, and a required sink. Gas or electrical services for ovens, ranges, cooktops and associated venting shall not be permitted within any supportive units or emergency shelter rooms. The facility shall contain offices for supportive services including but not limited to social and case management services, counseling, and similar programs and supportive services provided by the non-profit or City to enable individuals experiencing homelessness to transition to permanent housing and self-sufficiency. All supportive units and emergency shelter rooms within the facility shall qualify as affordable housing within the meaning of CGS Section 8-30g as follows: supportive units shall be restricted in occupancy to persons or families, identified as family units within the meaning of CGS Section 8-30g, whose income is equal to or less than forty (40) percent of the state median income for a term no less than forty (40) years; and, emergency shelter rooms shall be restricted in occupancy to persons or families, identified as family units within the meaning of CGS Section 8-30g, whose income is equal to or less than fifty (50) percent of the state median income for a period of not less than fifteen (15) years; transitional homeless shelter.

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**SECTION 5. ARTERIAL COMMERCIAL DISTRICT: CA-80**  
**Proposed Revision to § 5.B.5.g (2) and (15)**

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**5.B.2.b. Special Exception Uses**

(19) Transitional shelter for the homeless. See Section 5.B.5.g.

(~~19~~ 20) Truck terminal, warehouse, moving and storage establishment; self-service storage. See Section 6.C.3.

Renumber remaining uses consecutively.

**5.B.5. Specific Use Regulations: Special Exception Uses.**

The following use regulations shall apply to the special exception uses specified below.

g. Transitional shelter for the homeless.

- (1) Vehicular access to the site shall be provided solely from an arterial street.
- (2) The site shall have a ramp from Exit 4 of Interstate 84.
- (3) The facility shall contain no greater than a total of eighty-six (86) supportive units and emergency shelter rooms used as accommodations for individuals experiencing homelessness and/or transitioning from homelessness to permanent housing.
- (4) There shall be no greater than forty-eight (48) supportive units within the facility.
- (5) No supportive unit or emergency shelter room shall be occupied by more than two (2) individuals; however, in emergency situations, more than two (2) individuals may be housed in a one-bedroom suite, provided that the total number of individuals accommodated within the facility shall not exceed one-hundred-and-seventy-two (172).
- (6) Laundry facilities shall be available and accessible to emergency shelter room occupants, and a laundry room shall be located on each floor with supportive units for use by said supportive unit occupants.
- (7) No exterior site or façade alterations shall be made without required permits and approvals issued by the City of Danbury.
- (8) The facility may contain a room within the building where food is provided to shelter occupants, subject to obtaining all required permits and approvals.
- (9) An interior layout plan of the facility shall be submitted with any application for special exception and site plan approval and shall accompany the application for issuance of a Zoning Permit to use the site as a transitional shelter for the homeless.



Proposed Revision to Zoning Regulation Amendment  
November 15, 2021

- (10) All supportive units and emergency shelter rooms shall have access solely from an interior hallway. No supportive unit or emergency shelter room shall be accessed from the exterior of the building, unless such access is required for life safety as determined by the Fire Marshal.
- (11) The non-profit entity operating said transitional shelter for the homeless shall issue a written report to the Department of Health and Human Services and the Zoning Enforcement Officer by January 31<sup>st</sup> of each year beginning in 2022 certifying compliance with these additional use regulations, the use definition, and affordability components contained therein.
- (12) All required occupancy restrictions for supportive units and emergency shelter rooms, as required by the use definition, shall be submitted with the application for special exception and site plan approval and shall be recorded on the Danbury Land Records prior to issuance of a Zoning Permit. Prior to recording, said occupancy restrictions shall be submitted by the facility operator to the Office of the Corporation Counsel for review and approval as to form and content. Copies of recorded restrictions shall be filed with the Zoning Enforcement Officer, and Directors of the Departments of Health and Human Services and Planning and Zoning.
- (13) The Planning Commission may request such additional information as necessary to determine compliance and issue findings in accordance with Section 10.C.4 of these Regulations.
- (14) A transitional shelter for the homeless shall be the sole principal use of a qualifying property, and shall not be combined with or operated simultaneously with any other permitted or special exception use.
- (15) An application for a special exception and site plan approval under this subsection for a transitional shelter for the homeless shall include a detailed plan for security and safety of the building interior; the building exterior including parking and outdoor recreation areas; and the perimeter of the property. The plan shall include lighting, fencing, alarm systems, surveillance cameras, staffing, and hours. The plan shall also include the establishment of a neighborhood crime watch program, to be conducted in cooperation with law enforcement and neighboring property owners. The plan shall be proposed as an enforceable condition of special exception approval, and the Planning Commission, in conjunction with City staff, may suggest and impose additional, reasonable conditions to ensure the safety and security of residents and staff of the shelter, nearby residents, nearby business customers, and the general public.

Tab 3



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

**PLANNING & ZONING DEPARTMENT**  
(203) 797-4525  
(203) 797-4586 (FAX)

*SENT VIA EMAIL*

May 10, 2021

Jaber Saidi  
2027 Chatteron Avenue  
Bronx, NY 10472

RE: Application for a Waiver to Site Plan Requirements, Code # W 21-08  
Change in Use: Fast food restaurant (Dunkin Donuts) to vape shop  
Lake Avenue and Mill Ridge Road (Mill Ridge Plaza)  
Tax Assessor's Lot # G15004

Dear Mr. Saidi:

I have reviewed the above-referenced request for an approximately 1,047 square foot (sq. ft.) vape shop in an existing building identified as the Mill Ridge Plaza, located at the corner of Lake Avenue and Mill Ridge Road. The tenant space was previously occupied by Dunkin Donuts. The property owner is E.W. Batista Family Limited Partnership.

In accordance with Section 5.B.2.a(40) of the Zoning Regulations, the retail use is a permitted use in the CA-80 Zoning District.

The proposed retail use requires 7 parking spaces. The previous fast food restaurant use required 7 spaces. As such, the Department has determined there is no change to the parking status and adequate parking is available for the proposed use.

Your application for a Waiver to Site Plan Requirements for said retail use in an existing building located at the corner of Lake Avenue and Mill Ridge Road (Tax Assessor Lot # G15004), is approved, subject to the following administrative requirements:

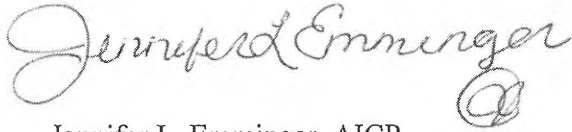
1. Approval is granted strictly for the proposed use. Any additional changes to the site layout will require a revised Site Plan application.

This approval does not waive any other departmental approvals, requirements or permits that may be necessary to complete this project, including that required for site signage. The Permit Center should be contacted regarding the process of obtaining a Zoning Permit.



Please contact the Department of Planning and Zoning if you have any questions.

Respectfully,

A handwritten signature in cursive script that reads "Jennifer L. Emminger". The signature is written in dark ink and includes a stylized initial "J" and a small flourish at the end.

Jennifer L. Emminger, AICP  
Deputy Planning Director

cc: Sean Hearty, Zoning Enforcement Officer (via email)  
Mike Struna (via email)  
E.W. Batista Limited Partnership (via email)